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EXAMINER	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte BEHROUZ AGHILI, MARIAN RUDOLF,
STEPHEN G. DICK, and PRABHAKAR R. CHITRAPU

Appeal 2015-003062
Application 12/241,256
Technology Center 2400

Before JASON V. MORGAN, KEVIN C. TROCK, and
MICHAEL M. BARRY, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants[1] appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 21–25 and 29–33, which are all pending claims. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

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[1] Appellants identify the real party in interest as INTERDIGITAL PATENT HOLDINGS, INC. App. Br. 3.

Introduction

The claimed invention relates to wireless communications. Spec. ¶ 5. For background, Appellants discuss the GSM (Global System for Mobile communications) Release 7 specification (*see* Spec. ¶¶ 6– 23), and state that

> no method has been provided for how a WTRU [wireless transmit/ receive unit] should deal with a configured time-based PAN [piggybacked ACK/NACK (positive/negative acknowledgement)] field received in the DL [downlink] when simultaneously using EGPRS-2 UL [enhanced general packet radio services-2 uplink] . . . transmissions in the UL. Similarly, no method has been provided for how a WTRU should deal with TB-FANR [time-based fast acknowledgement/non-acknowledgement reporting] mode when using EGPRS-2 DL [-downlink] . . . transmissions in the DL.

Spec. ¶ 23.

Claim 21 is representative (dispositive limitation shown in *italics*):

> 1. A method for performing, by a wireless transmit/receive unit (WTRU), time-based fast positive acknowledgement (ACK)/ negative acknowledgement (NACK) response (FANR) operation, the method comprising:
>
> transmitting a radio block including a plurality of radio link control (RLC) data blocks; and
>
> receiving a radio block including a piggybacked ACK/NACK (PAN) field, wherein the PAN field comprises a variable number of bits, *wherein both a quantity and a value of the variable number of bits is based on both a quantity of the plurality of RLC data blocks and a decoding status of the plurality of RLC data blocks*, wherein the decoding status indicates header decoding failings and missed or erroneously decoded RLC data blocks of the plurality of RLC data blocks.

App. Br. 16 (Claims App'x).

References and Rejections

Claims 21–25 and 29–33 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Parolari (US 2010/0011273 A1; pub. Jan. 14, 2010) and Sebire et al. (US 2008/0056303 A1; pub. Mar. 6, 2008) ("Sebire"). Final Act. 6–10.

ANALYSIS

Based on Appellants' arguments, the issue before us is whether the Examiner errs in rejecting claim 21 as obvious in view of Parolari and Sebire.[2] *See* App. Br. 10–14.

In rejecting claim 21, the Examiner finds Parolari teaches all requirements, except for the recited "piggybacked ACK/NACK (PAN) field" in the received radio block, which the Examiner finds Sebire teaches. Final Act. 6–7. Appellants argue the Examiner errs, *inter alia*,[3] because in

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[2] Appellants argue the Examiner errs in rejecting both the other independent claim (29), which recites limitations similar to independent claim 21 and stands rejected for the same reasons, and all dependent claims (22–25 and 30–33) solely based on the arguments for claim 1 (*see* Final Act. 6–10). App. Br. 14. Except for our final disposition, we do not further discuss *infra* claims 22–25 and 29–33.

[3] Because we have identified a dispositive issue, we do not address Appellants' other arguments. We also note, in an *ex parte* appeal, the Board "is basically a board of review—we review . . . rejections made by patent examiners." *Ex parte Gambogi*, 62 USPQ2d 1209, 1211 (BPAI 2001). Review under 35 U.S.C. § 134 "is not a process whereby the examiner . . . invite[s] the [B]oard to examine the application and resolve patentability in the first instance." *Ex parte Braeken*, 54 USPQ2d 1110, 1112 (BPAI 1999). The Board's primary role is to decide based on the findings and conclusions presented by the Examiner. *See* 37 C.F.R. § 41.50(a)(1). We express no opinion as to the validity of the pending claims in view of additional explanation and/or references. Although we have authority to reject claims

the Examiner's combination of Parolari and Sebire, "the quantity of the bits in the PAN field would have nothing to do with the decoding status of the RLC data blocks, and the value of the bits in the PAN field would have nothing to do with the quantity of the RLC data blocks," as required by claim 21. App. Br. 14.

The Examiner answers that

> Given the broadest reasonable interpretations considering Applicant's specification, Examiner disagrees. If 2 RLC [radio link control] bitmaps creates 4 decoding statuses (2^2=4) (i.e., 00, 01, 10, 11), then one can see and understand that 3 RLC bitmaps creates 9 (3^2=9) decoding statuses (i.e., 000, 001, 011, 111, 100, 101, 111, 010, 110), or 4 RLC bitmaps will create 16 (4^2) possible decoding statuses. As such, the decoding statuses of RLC data block is understood to correlate to the bits in the ACK/NACK, or reversely, the bits in the ACK/NACK correlates to the decoding statuses of plurality of RLC data blocks.

Ans. 7.

The Examiner's examples show how many decoding statuses of RLC blocks may be represented by variable length PAN fields of 2, 3, or 4 bits. In each example, the given quantity of PAN field bits can represent all combinations of possible values for the corresponding decoding statuses. In other words, in the Examiner's examples, the quantity of the variable number of PAN field bits is based on the number of RLC blocks but is *independent of* any decoding status value. Claim 21, however, requires a quantity of the variable number of bits in the PAN field to be a function of ("based on") *both* the quantity of RLC data blocks *and* a decoding status of the RLC data blocks. The Examiner does not explain how or why the

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under 37 C.F.R. § 41.50(b), no inference should be drawn when we elect not to do so. *See Manual of Patent Examining Procedure* (MPEP) § 1213.02.

quantity of the variable number of PAN field bits in the given examples is *based on* a decoding status, as recited.

Accordingly, we do not sustain the rejection of claim 21.

DECISION

For the above reasons, we reverse the rejection of claims 21–25 and 29–33.

REVERSED